

Sec. 21-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Applicant means any person required by this chapter to make application for a permit.

City means the City of Wheat Ridge.

Contractor means an individual, partnership or corporation as defined in section 5-101.

Design engineer means a professional engineer registered in the state and employed by the applicant or under contract to the applicant.

Director means the director of public works or his authorized representative.

District means any metropolitan, water and/or sanitation district formed under Title 32, Article I, C.R.S., as amended.

Emergency work includes work required to restore broken or plugged water and sewer mains, water and sewer service lines, gas mains or services, cut or defective telephone, electric and cable facilities and traffic signal control lines or other situations as determined by the director.

Flowable backfill material shall contain the following ingredients meeting ASTM properties and be mixed in the following proportions:

| <i>Mix Proportions</i> | <i>LBS/CY of Concrete</i> |
|------------------------|---------------------------|
| <i>Ingredients</i> | <i>Test Method</i> |
| Cement | ASTM C-150 42 pounds |
| Sand | ASTM C-33 1845 pounds |
| 1" aggregate | ASTM C-33 1700 pounds |
| Air entrainment | ASTM C-260 5 ounces |
| Water | ASTM C-94 39 gallon |

***Editor's note**—Ord. No. 1994-987, § 1, adopted Jan. 9, 1995, amended Ch. 21 by repealing provisions designated as §§ 21-1—21-100, containing general provisions and provisions relative to street excavations, construction, etc., derived from Code 1977, §§ 20-1—20-17, and added provisions similar in nature as new §§ 21-1, 21-3, 21-11—21-13, 21-20, 21-30, 21-51—21-54, 21-60, 21-60.1, and 21-61. Provisions originally designated as §§ 21-40 and 21-25, respectively, have been redesignated as §§ 21-3 and 21-60.1, respectively, in order to provide for better classification.

The maximum desirable twenty-eight-day compressive strength for the flowfill material is sixty (60) psi to allow for a workable subgrade for future work.

Permit means written authorization by the director allowing persons to enter city streets, roads or rights-of-way for the purpose of construction, installation and excavation. Such permits shall be issued only at such time as all requirements imposed by this chapter are satisfied and all applicable fees imposed in this chapter are paid.

Permittee means the holder of a valid permit.

Person(s) means any person; firm; partnership; special, metropolitan or general district association; corporation; municipal department; company or organization of any kind.

Public way means any public street, way, place, alley, sidewalk, easement, park, square, plaza and any city-owned right-of-way or any other public property owned or controlled by the City of Wheat Ridge and dedicated to public use. Any easements dedicated solely for utility purposes shall not be governed by the provisions of this ordinance.

[Ordinance No. 1994-987].

Specifications means the current edition of the "Standard Specifications for Road and Bridge Construction" and the M and S Standards of the Colorado Department of Transportation, Division of Highways, as may be amended by the City of Wheat Ridge.

Street means a dedicated public right-of-way which serves, or is intended to serve, the needs of residential, industrial or commercial areas of the city.

Unimproved street means a street which has not been surfaced with asphaltic or concrete pavement.

Work in the public way shall mean, but not be limited to, construction of streets and all related appurtenances, curbs and gutters, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, landscaping and traffic signal devices. It shall also mean construction, mainte-

such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire or any other similar structures located under the surface of any public way, and installation of overhead poles used for any purpose.

(Ord. No. 1994-987, § 1 (21-1), 1-9-95)

Sec. 21-2. Vacation of roadways; reservations of rights.

Notwithstanding provisions of the Colorado Revised Statutes to the contrary, the city council, when vacating a roadway pursuant to sections 43-2-301 et seq., C.R.S., may reserve rights-of-way, easements or other interests in said roadway for any of the existing or future sewer, gas, water or similar pipelines and appurtenances, pedestrian, walkways, ditches or canals and appurtenances, and electric, cable television, telephone, and similar lines and appurtenances. This list of rights-of-way and easements is for illustrative purposes only and is not intended to be a complete list of the rights-of-way or easements which can be reserved pursuant to this section, it being the intent of this section to empower the city to reserve any interest, of whatever kind or nature, in the vacated roadway.

(Ord. No. 1995-1003, § 1, 6-12-95)

Sec. 21-3. Violation, penalty.

Any violations of any of the provisions of this chapter shall be punished as provided in section 1-5. Notwithstanding the previous provisions of this section, the provisions of section 21-20(d) hereof may, in the discretion of the director, be enforced pursuant to the terms thereof or pursuant to the provisions of this section, but not by both.

(Ord. No. 1994-987, § 1 (21-40), 1-9-95)

Sec. 21-4. Street width designation.

(a) *Purpose.* The purpose of this section is to implement section 5.20 of the City Charter of Wheat Ridge pertaining to the designation of street widths.

following terms shall have the meaning indicated:

Flowline: The measurement from the inside edge of one curb to the inside edge of the opposite curb. Where no curb exists, flowline shall be the measurement from the outside edge of one side of the driving surface of the street to the outside edge of the opposite side of the driving surface of the street.

Street width: The width of a street measured from flowline to flowline.

Street width designation: The width of a street measured from flowline to flowline as determined by the city council in accordance with this section.

(c) *Public hearing required.* No earlier than one year prior to construction or reconstruction of any street, the city council shall hold a public hearing to determine and approve the street width designation for such street.

(d) *Notice.* At least fifteen (15) days prior to such hearing, a public notice of the date, time, and purpose of the hearing shall be published in a newspaper used by the city for the publishing of legal notices. Notice shall also be provided by the mailing of a certified letter to all property owners within three hundred (300) feet of both sides of the street proposed for street width designation. Owners of land shall be considered immediately adjacent or contiguous to the street, or within three hundred (300) feet of the street edge despite the existence of intervening land or right-of-way owned by the city. Such mailed notice shall contain:

- (1) A description of the street width designation to be proposed for the street and a statement that the specific plans are available for inspection at the Wheat Ridge Municipal Building;
- (2) An explanation of the right of property owners to protest such proposed street width designation along with a description of the procedure for the exercise of such right; and
- (3) The full and complete text of section 5.20 of the City Charter.

tion of a resolution setting a street width designation shall require the affirmative vote of a majority of the city council present and voting unless a valid written protest is filed with the city council prior to the conclusion of the public hearing. Upon the receipt of a valid written protest, a three-fourths vote of the entire city council shall be required for approval of a resolution setting a street width designation.

(f) *Protest.* Prior to the conclusion of the public hearing, a protest against a proposed street width designation may be filed with the city council. Such protest shall be in a form prepared by the city clerk and must be signed by the owners of either:

- (1) Twenty (20) percent of the property immediately adjacent or contiguous to either side of such street; or
- (2) Ten (10) percent of the property lying within three hundred (300) feet of either side of such street.

Property need not be entirely contained within the 300-foot area to be used in the computation of the ten (10) percent necessary to file a protest; provided that only the portion of the property actually lying within three hundred (300) feet of the street edge shall be used to compute the ten (10) percent required for the filing of a protest. City-owned property or right-of-way shall be excluded from the computation of the required percentage of properties necessary for the filing of a valid protest. Owners of land shall be considered immediately adjacent or contiguous to the street, or within three hundred (300) feet of the street edge despite the existence of intervening land or right-of-way owned by the city.

(g) *Elections.* Following the adoption of a resolution approving a street width designation, an election may be called and held for the purpose of referring the designation to voters in accordance with the requirements of section 5.20 of the City Charter.

(h) *Additional forms and instructions.* The city clerk may create and maintain forms and petitions instructions not inconsistent with this sec-

necessary to implement the requirements of this section.

(Ord. No. 1996-1042, § 1, 8-12-96)

Secs. 21-5—21-10. Reserved.

ARTICLE II. WORK IN PUBLIC WAYS*

Sec. 21-11. Permits—Generally.

(a) *Permit required; compliance with regulations and specifications; application to city personnel.* It shall be unlawful for any person to perform work within the public way of the city for any purpose without first having obtained the permits and having paid the fees that are herein established and without complying fully with the fees, regulations and specifications of this city which are hereby established by this article. No permit shall be issued to an applicant until said applicant has been licensed by the city as provided in chapter 5. This provision shall not be applicable to work performed by city personnel in pursuit of their regular or assigned duties.

(b) *Limited application to state contractors.* Contractors working for the Colorado Department of Transportation on state highway projects will also be required to obtain a permit for that portion of their work which lies outside the right-of-way of the state. Work performed in the public way shall be in accordance with the city's standards and specifications. The state contractor shall name the city as an additional insured on their insurance policies in force for the state contract.

(Ord. No. 1994-987, § 1 (21-10, 21-11), 1-9-95)

Sec. 21-12. Same—Exceptions for water and sanitation districts and certain utility companies.

Water and sanitation districts and public utilities are authorized to enter upon the public way of the city to make repairs without a permit when emergency circumstances demand the work be done immediately. The person doing the work shall apply to the city for a permit on the first

*Note—See the editor's note to Art. I of this chapter.

which the city offices are open for business. Except as provided in this section, the entities described herein are subject to all duties, fees and requirements of this article.

(Ord. No. 1994-987, § 1 (21-12), 1-9-95)

Sec. 21-13. Excavations for private water companies, other utility companies.

Private utility and water and other utility companies, including the Denver Water Board, and Consolidated Mutual Water Company, whose primary function is to provide water for consumption are authorized to enter upon the public way to make emergency repairs without a permit when emergency circumstances demand the work be done immediately. The person doing the work shall apply to the city for a permit on the first working day after such work has commenced in which the city offices are open for business. Except as provided in this section, the entities described herein are subject to all duties, fees and requirements of this article.

(Ord. No. 1994-987, § 1 (21-13), 1-9-95)

Secs. 21-14–21-19. Reserved.

Sec. 21-20. Fees generally; bonds, etc.; other provisions relative to permits.

(a) *Establishment by resolution; maintenance of fee schedule.* The fees to be made for permits required by this article and for inspections made or required by this article shall be established by resolution. The current fee schedule shall be maintained by the department of public works and may be examined during normal business hours.

(b) *Charge for street cuts made between November 1 and March 15.* Street cuts requested for nonemergency reasons for work between November first and March fifteenth shall be charged twice the normal permit and inspection fee.

(c) *When bond, cashier's check, letter of credit required.* When the cost of the work for which the permit is required exceeds five thousand dollars (\$5,000.00), a bond, a cashier's check or irrevocable letter of credit in the amount of the estimated cost of such work shall be filed with the director prior to the issuance of such permit. The bond, cashier's check or irrevocable letter of credit shall be in effect for two (2) years after acceptance of the work by the city.

(d) *Advance payment required; stoppage of work for lack of permit.* Unless otherwise provided for

work in the public way, the fee shall be payable in advance of excavation or construction in the public way. The lack of a permit on the job site shall be a valid reason to require the stoppage of all work in the public way except that required by the director to open the public way to use.

(e) *Violation; penalty; replacement at permittee's cost.* Unless otherwise provided for in this article, work in the public way without a valid permit when the applicant is operating without such permit is a violation of the City Code of Laws. The violator shall be required to obtain the required permit for the work. The minimum administrative penalty assessed shall be either two hundred twenty-five dollars (\$225.00) or triple the permit and inspection fees, whichever is greater, plus any additional costs incurred for special testing of the completed work. If, in the opinion of the director, the completed work cannot be adequately tested or was placed not in accordance with the approved plans and specifications, it shall be removed and replaced at the permittee's sole Cost.

(f) *Work by individual property owners.* The director may waive the contractor's license and its requirements for a property owner desiring to repair their driveway or sidewalk, provided that the property owner performs the work personally and upon satisfactory evidence to the director that the applicant is competent to perform the work. The property owner will be required to obtain a permit and pay associated fees as required under this article in addition to providing proof of homeowner's liability insurance and providing a bond, letter of credit or escrow for the value of the work contemplated under the permit.

(g) *Denial of permit; appeal.* No permit shall be issued to any person who, in the opinion of the director, is not qualified to perform the work in accordance with the street excavation standards and specifications. Any person who is denied a permit may appeal such denial, in writing, to the mayor within ten (10) days of such denial.
(Ord. No. 1994-987, § 1 (21-20), 1-9-95)

Secs. 21-21–21-29. Reserved.

21-30. Permittee guarantee prerequisite to issuance of permit; determination of necessity for repairs; appeal process.

(a) The permittee, by acceptance of the permit, expressly guarantees all work done by him for a period of two (2) years from and after the date of final completion and agrees upon demand to maintain and make all necessary repairs to the same during the above period without additional charge or cost to the adjacent property owners or the city. This guarantee shall include all repairs growing out of:

- (1) Imperfection or unsuitability of material or composition;
- (2) Defects in workmanship;
- (3) Settling of fills or excavation;
- (4) Weather;
- (5) Any unauthorized deviation in the work from that shown on the approved plans and specifications;
- (6) Work not performed in accordance with the city's standards and specifications;
- (7) Damage to the work prior to completion of construction; or
- (8) Failure to clean up during and after performance of the work.

The guarantee shall extend to the whole body of the work, and the repairs under it may extend to a total reconstruction of the entire project if, in the judgment of the Director based upon the plans, specifications and good engineering practices, such total reconstruction is necessary to repair defects. It is not necessary that an additional new two (2) year guarantee be provided for subsequent repairs after initial acceptance.

(b) Thirty (30) days prior to the expiration of the two-year warranty period, the director shall perform a final inspection of the completed project. The director shall inform the permittee of any necessary repairs and, after completion of repairs by the permittee, shall issue a written notice to the permittee that the completed project is acceptable to the city for maintenance. No work shall be

performed until such time as the necessary repairs are complete and the director has issued a final acceptance.

(c) At any time prior to completion of the two-year warranty period, the director may notify the permittee of any needed repairs. Such repairs shall be completed by the permittee within twenty-four (24) hours if the defects are determined by the city to be an imminent danger to the public health, safety and welfare. Nonemergency repairs shall be completed within thirty (30) days after such notice.

(d) The determination of the necessity for repairs rests with the director. When the director has determined that repair or reconstruction of any project or part thereof is necessary, based upon any of the acts or omissions enumerated hereinabove within the guarantee period, the action shall be as follows:

- (1) The director shall, by certified mail, return receipt requested, give notice to the permittee of the necessary requirements to bring such construction into conformance with the approved plans and specifications.
- (2) Should the permittee dispute the necessity of repairs, he may request a hearing. This request shall be in writing to the director within seven (7) days of the date on the notice for repairs.
- (3) Should the permittee fail to object in writing within seven (7) days from the date of the notice, or should the permittee fail to begin the necessary repairs or reconstruction within such time, the city may make such repairs or contract for such repairs to be done and charge the cost of same to the permittee. The time to make the necessary repairs may be reduced by the director when found to be in the best interest of the public safety. The time may also be extended due to the complexity of the project or weather considerations. The permittee shall have thirty (30) days after formal notification of the cost of the repairs to make full payment to the city. If payment is not received within the thirty-day period, the city may institute an action upon the bond of the per-

...for the imposition of a lien upon the property of the permittee, the abutting property owners or the utility company or district that owned the facility worked on, as appropriate.

- (4) If a hearing is requested by the permittee, the director shall set a time, place and date, and so notify the permittee. The hearing date shall not be more than forty-five (45) days from the date of receipt of the request for a hearing. The permittee shall be afforded a minimum of seven (7) days between service or mailing of the order and the hearing.
 - (5) When a hearing is conducted, the permittee and other interested parties may be in attendance. Upon completion of the hearing, the director shall take all evidence under advisement and shall, within ten (10) days, transmit the findings and rulings to the permittee. The findings and rulings shall be rendered in writing by certified mail or personal service and, if appropriate, shall contain the date upon which the repair or reconstruction shall commence.
 - (6) All mailing shall be to the last known address of the permittee as shown on the permit. The permittee shall be considered notified if the mailing is returned by the United States Postal Service with the notation that such mailing is either unclaimed or undeliverable and the order was addressed to that address indicated on the permit.
- (e) In the event of a hearing, the director may appoint a qualified member of the public works department to sit in his place as the hearing official. The final decision shall be rendered by the director.
- (f) The decision rendered by the director may be appealed within thirty (30) days of the date of notification to the mayor. The mayor shall determine, after the taking of testimony of both parties, whether or not the defect arose out of one of the hereinabove eight (8) reasons specified in paragraph (a), and, if such is found to be the case, the director's initial order shall stand.
- (Ord. No. 1994-987, § 1 (21-30), 1-9-95)

Sec. 21-51. Liability for injuries, damage.

To the extent authorized and permitted by law, the utility district or company shall be responsible for liability for injury to persons or damage to property resulting from installation of its underground structures or from the repair or failure to repair street surfaces as herein provided. If the utility company or district is conducting the work with their own forces, they shall submit proof of insurance and bond as required in section 5-125. (Ord. No. 1994-987, § 1 (21-51), 1-9-95)

Sec. 21-52. Responsibilities of persons working in the public way.

Responsibilities of persons performing work in the public ways of the city shall be as follows:

- (1) Except as specifically limited by section 21-51 (as relates solely to utilities and quasimunicipal corporations), persons making excavations in the public ways of the city shall indemnify and hold harmless the city, the city council members, the director and city employees individually from liability for injury to persons or damage to property resulting from any work performed under a permit including excavation or backfill of underground structures or failure to repair street surfaces as herein provided. They further shall hold harmless the city, the city council members, the director and city employees individually from liability for injury to persons or damage to property resulting from the inadequacy of barricades, lights or other proper warning devices. In those instances where indemnification is precluded by law, the entity performing work provided hereunder shall be responsible for its own, or its contractor's or agent's acts or omissions.
- (2) Good practices and standard safety precautions shall be observed at all times. All work areas will be provided with complete and adequate barricades by day and adequate barricades and lights by night until the

persons responsible hereunder are relieved of the responsibility for traffic control by the director.

- (3) During the development phase in new subdivisions while streets are being laid out, constructed and/or surfaced, or while utility lines are being laid or installed, authorization may be granted to totally barricade these streets in the interest of public safety. This authorization will be in writing and approved by the director. The authorization shall state the time period when such total barricading will be allowed and any special conditions required for closure of the roadways.
- (4) Thirty (30) days prior to commencement of work involving construction or extension of water mains, sewer mains, storm sewers, curb and gutter, sidewalk, street construction or other aboveground or underground facilities, engineering plans and specifications shall be presented to the director for review. These plans and specifications shall be approved by the director prior to issuance of a permit for the work included.
- (5) When a street is overlaid or reconstructed by the city, the responsibility of the permittee is removed. The city shall cancel and automatically release any escrows that are on deposit with the city after any deductions are made from the escrow account or the permittee pays the city for costs related to stabilization of his street cuts.
- (6) Traffic control plans shall conform the applicable requirements of the "Manual on Uniform Traffic Control Devices," as adopted by the city and State of Colorado. (See section 21-60)
- (7) The director must approve all tunnel or bore construction prior to construction. Tunnel and/or bore construction may be required in lieu of open excavation if the director deems it to be in the best interest of the city.

A permit may be suspended or revoked by the director, after notice to the permittee, for:

- a. Violation of any condition of the permit or of any provision of this chapter.
- b. Violation of any provision of any other ordinance of the city or state law relating to the work.
- c. Existence of any condition or the doing of any act which does constitute or cause a condition endangering life or serious damage to property.

A suspension or revocation by the director, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way. The only work permitted after receipt of a stop work order will be that required by the director to open the public way to use.

A stop work order may be issued by the director to any person or persons doing or causing work to be done in the public way without a permit or in violation of any provision of this chapter or any other ordinance of the city.

(Ord. No. 1994-987, § 1 (21-52), 1-9-95)

Sec. 21-53. Inspection requests.

(a) Requests for inspections by the department of public works shall be made at least twenty-four (24) hours in advance. For Saturdays, Sundays, city-observed holidays or at night requests shall be made at least forty-eight (48) hours in advance. In the event that work is permitted on Saturday, Sunday, at night or city holidays, the permittee will be required to pay to the city any overtime costs incurred by city personnel assigned to observe and test the work being performed during such time.

(b) It is the permittee's responsibility to contact the director to request inspections of the work contained under the permit. The permittee will be responsible for any additional costs incurred by the city for special testing of work performed without such notice and opportunity for inspection. If, in the opinion of the director, the completed work cannot be adequately tested or was

and specifications, it shall be removed and replaced at the permittee's sole cost.

(c) The inspection and/or testing of portions of the work and materials shall not relieve the permittee of any of his obligations to construct the work in accordance with the approved plans and specifications. Work and materials not meeting such requirements shall be made good and unsuitable work or materials may be rejected, notwithstanding that such work and/or materials may have been previously inspected and/or tested by the inspector.

(Ord. No. 1994-987, § 1 (21-53), 1-9-95)

Sec. 21-54. Subcontracts.

When work is performed by an independent contractor for any water and/or sanitation district and/or utility company, the district/company shall provide the permit(s) for all work done in the public way in the city and shall be responsible to the city in all manners as prescribed herein as the permittee. The subcontractor shall be identified on the request for the permit and shall be currently licensed with the city for the type of work to be done.

(Ord. No. 1994-987, § 1 (21-54), 1-9-95)

Secs. 21-55–21-59. Reserved.

Sec. 21-60. Traffic and access.

To avoid interference with traffic, the following conditions must be observed in working in the public way:

- (1) All work in the public ways must have a traffic control plan approved by the director. The traffic control plan must provide safe methods for movement of pedestrians and motorists through the work zone and a safe area for workers engaged in the construction activity. The traffic control plan shall be site-specific unless otherwise allowed by the director. The traffic control plan shall include the name and emergency phone numbers of the permittee and the permittee's designated traffic control supervisor.

not impede traffic. Should it be necessary to restrict traffic in any manner, the applicant shall submit two (2) copies of a traffic control plan to the director for approval at least seventy-two (72) hours before any work commences. The applicant shall not begin any work until he receives approval from the director.

- (3) It shall be the responsibility of the permittee performing the work to coordinate all work in the public way with appropriate fire, ambulance, police and transit authorities of the times and locations of any impediment of traffic.
- (4) When necessary for public safety, the permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. Flag persons shall be trained in flagging operations and shall be certified. The use of flag persons may be required by the director as part of the traffic control plan.
- (5) Unless approved by the director, the permittee shall not impede rush hour traffic on collector/arterial streets during rush hours. No construction shall be performed nor shall any travel lane on these street classifications shall be closed between the hours of 6:30 a.m. to 8:30 a.m. or 3:30 p.m. to 6 p.m. without the approval of the director.
- (6) As a guide for all maintenance and traffic signing, Part VI of the "Manual on Uniform Traffic Control Devices" and the CDOTS Standards shall be used. The permittee shall illustrate on the permit the warning and traffic control devices proposed for use during construction. At the discretion of the director, such warning and control devices may be increased, decreased or modified before and after issuance of the permit.
- (7) Type I, II and III barricades must be used whenever it is necessary to close a travel lane or sidewalk. Barricades are to be supplied by the permittee. All work shall be

hours of sunset and sunrise and shall be properly lighted and delineated so as to warn all persons.

- (8) The permittee shall be responsible for furnishing, erecting and maintaining traffic control devices and facilities required by the traffic control plan throughout the life of the permit, including any periods of suspension.
- (9) Traffic control devices other than those which generally inform the public of work zones ahead which face oncoming traffic shall be turned away from oncoming traffic or otherwise masked from view during non-working hours. Signs which are specific in nature, such as lane drop signs, flagman ahead signs, road closed signs and other signs, which in the opinion of the director are inappropriate for display during non-working hours are subject to confiscation by the city. Confiscated signs may be released by the city to the owner after payment of a fifteen dollars (\$15.00) redemption fee for each confiscated sign. Traffic control devices shall not be placed on sidewalks nor shall they block pedestrian access.
- (10) No permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained from the owner of that facility.
- (11) Work shall be conducted in a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust and unsightly debris. No work shall be done between the hours of 7:00 p.m. and 7:00 a.m. nor at any time on Saturday, Sunday or holidays except with written permission of the director or in case of emergency.

Any work on a sidewalk or on a private property shall be thoroughly cleaned up of all rubbish, excess dirt, rock and other debris as the work progresses.

(Ord. No. 1994-987, § 1 (21-60), 1-9-95)

Sec. 21-60.1. Excavations, backfilling and compacting.

All excavations in the city streets, roads, alleys and rights-of-way shall be made to the following specification:

- (1) Excavations shall be made to the lines and grades on the approved plans. The permittee shall be responsible for and take any special precautions to prevent damage to adjacent structures and/or property.
- (2) Surfacing materials such as concrete and asphalt shall be full depth line cut by sawing, grinding, etc., and removed to neat lines. Areas of concrete or asphalt that are damaged by construction operations, undercut or uplifted shall be line cut and removed for replacement with new pavement material.
- (3) If prior defects exist at the proposed job site, the permittee may request a preinspection prior to work to establish defects for which the permittee will not be held responsible. Otherwise, the permittee will be held responsible for any defects which may have been the result of construction or reconstruction. All areas shall be restored to prior condition or better and all debris shall be hauled from the construction site by the permittee.
- (4) Backhoe equipment outriggers shall be fitted with rubber pads or other protective devices whenever they are placed on paved surfaces. Tracked vehicles with metal grousers are not permitted on paved surfaces unless specific precautions are taken to protect the pavement surface. The permittee will be responsible for any damage to paved surfaces or concrete curb, gutter and sidewalk caused by the operation of such equipment, and upon order of the director shall repair or replace such surfaces.

so will result in the use of the permittee's bond or other surety by the city to repair any damages.

Pavement striping paint or preformed plastic pavement marking material damaged or destroyed during construction operations shall be repaired or replaced as directed by the director. Temporary pavement markings shall be placed and maintained by the permittee until permanent markings can be placed. Permittees may obtain preformed plastic pavement marking material from the city for three dollars (\$3.00) per square feet, if available.

- (5) Grading shall be done as may be necessary to prevent surface water from flowing into trenches or other excavations, and any water accumulating therein shall be removed by pumping or other approved methods. Shoring shall be placed as may be necessary for the protection of the work and for the safety of personnel, according to all federal, Occupational Safety and Health Administration (OSHA), state and local safety and health regulations. Groundwater shall be disposed of in accordance with state and EPA rules and regulations.
- (6) Trenches shall be of sufficient width and depth for properly completing the work. Surface material shall be removed to a minimum of one foot wider than trench opening. Minimum trench size shall be two feet by four feet (2'x4') in asphaltic pavements. Minimum trench sizes in concrete pavements will be determined on a case-by-case basis.

Trenches shall be kept as narrow as possible; however, if the edge of the trench is within three (3) feet of the curb and gutter lip, the pavement material shall be removed to the lip of the curb and gutter, unless otherwise approved by the director. If the edge of trench cut falls on a wheel path in a traffic lane, the trench width or location shall be adjusted to provide a seam that is outside the wheel path. This may also be accomplished by removal of additional pave-

ment material to a depth of two (2) inches deep, the existing pavement so the seam is outside the wheel path.

- (7) At no time will wet, soggy, frozen or other unsuitable material, as determined by the director, be allowed as backfill.
- (8) The use of squeegee material or pea gravel material shall be confined to pipe bedding only.
- (9) Cuts less than two (2) feet wide and/or less than ten (10) square feet shall be backfilled with flowable fill to the bottom of the existing pavement or the minimum patch depth for the street type, whichever is deeper.

Cuts that are greater than ten (10) square feet in area and greater than two (2) feet wide may be backfilled with suitable native materials.

Flowable fill may be placed to the surface of the street and used for a temporary patch material until a permanent patch can be constructed.

- (10) Backfilling shall be placed in eight-inch loose and horizontal lifts, then compacted to one hundred (100) percent of maximum dry density, as specified by AASHTO T99, to a depth no greater than twelve (12) inches below final grade level. In place density tests shall be made at the direction of the director.

Clay and silt materials shall be placed within three (3) percent of optimum moisture content as determined by ASSHTO T99. Sand, gravel and aggregate base course shall be placed within three (3) percent of optimum moisture. Compaction shall be one hundred (100) percent of AASHTO T99A (Standard Proctor).

- (11) Minimum thicknesses of base course and surfacing materials shall be determined in accordance with an approved pavement design methodology. Unless otherwise approved by the director, the following minimum depths shall apply:

| <i>Class of Street</i> | <i>Asphalt (inches)</i> | <i>Base Course (inches)</i> |
|------------------------|-----------------------------|---------------------------------|
| Local | 5 | 3 |
| Collector | 8 | 3 |

An additional inch of hot bituminous pavement may be substituted for the three (3) inches of ABC.

Trial mix data for asphalt mixtures shall be supplied to the director when requested. All asphalt shall be supplied by asphalt plants certified by the State Department of Transportation, Division of Highways.

- (12) It is the intent of this article that all work involving disturbances to pavements in collector and higher volume local streets, as determined by the director, be permanently patched daily as work progresses. Lower volume local streets may be patched at less frequent intervals as determined by the director.

In the event the permittee is unable to permanently repair disturbed paved surfaces because of circumstances such as weather, water line testing or availability of material, a temporary patch of cold bituminous asphalt mix may be placed to provide a smooth driving surface. A permanent hot bituminous pavement patch shall be placed as soon as the circumstances which precluded immediate placement abate. Gravel roadbase will not be allowed as a substitute for cold or hot plant mixed asphalt. Maintenance to temporary patches shall be by the permittee at his sole cost.

- (13) All permanent asphaltic concrete patches shall be maintained by the permittee until accepted by the city. All contraction or other cracks shall be filled with a proper asphaltum product upon need, and not to exceed six (6) months subsequent to surface repair.
- (14) Any patched areas which settle more than one-half inch shall be dug out and the underlying area recompacted. The surfacing shall be then replaced to proper line and grade at the sole cost of the permittee.

The surface of the patch shall be as good as or better than that of the existing or surrounding pavement. If the surface grade of the patch deviates from the surface grade of the street surface by more than one-quarter inch, the bituminous pavement of the patch shall be removed to a minimum depth of one inch, or one-half inch below the maximum deviation, whichever is greater. A tack coat shall be applied to all surfaces of the depression, after cleaning it of all loose material, and allowed to cure. Then enough hot plant mix asphaltic materials are to be spread in the depression to bring it to original street grade when compacted. The patch is then to be thoroughly compacted with a vibratory plate compactor or roller. If small compactors are used, the surface of the completed patch should be slightly higher than the pavement to allow for compaction.

- (16) The city has an ongoing rehabilitation and reconstruction program involving slurry seal, overlays and reconstructions of street pavements. Permittees will not be allowed to make nonemergency cuts to newly treated pavements without substantial restorative work as detailed below:

- a. *Slurry-sealed streets:* Streets that have been slurry-sealed may not be cut for two (2) years after the slurry seal has been placed without authorization by the director. In the event a street cut is allowed, the permittee will be required to pay the city for the cost of reslurrying the full width of the street for the length of the street cut in addition to regular permit costs.
- b. *Overlays and reconstructed streets.* Streets that have been overlain, in place recycled or reconstructed shall not be cut for five (5) years after the top lift of hot bituminous pavement material was placed without authorization from the director. In the event permission is granted, the permittee will [be] required to patch the trench cut to the existing pavement surface and then

... at least one lane width and pave the milled material and trench cut area with a self propelled laydown machine. Transverse cuts are to be milled at least one paver screed wide and repaved with a self-propelled laydown machine. The pavement shall be milled to at least one-half inch below existing pavement surface.

(Ord. No. 1994-987, § 1 (21-25), 1-9-95)

Sec. 21-61. Construction requirements in unimproved streets.

All excavations made in unimproved city streets, alleys or rights-of-way shall be carefully backfilled and compacted by the method prescribed in section 21-60, paragraphs (1) through (14). Minimum surfacing of six (6) inches of class 6 aggregate base course shall be placed and compacted to one hundred (100) percent of AASHTO T99.

(Ord. No. 1994-987, § 1 (21-61), 1-9-95)

Secs. 21-62—21-100. Reserved.

ARTICLE III. PERMITS FOR USE OF RIGHT-OF-WAY

Sec. 21-101. Generally.

(a) Permits for temporary use of public right-of-way by abutting property owners may be issued when such use is beneficial to both the applicant and the city. Such permits shall be issued only upon a finding by the director of public works that:

- (1) The desired results cannot be achieved without the use of the right-of-way;
- (2) When the desired results can be achieved with no impediment or impairment to public use of the right-of-way; and
- (3) When the desired results can be achieved with no danger to the public being created thereby.

... shall have sole authority in determining whether the conditions previously stated in this paragraph have been met.

(b) Any structures or other intrusions existing as of December 5, 1986 in public rights-of-way shall be removed within six (6) months of the effective date of Ord. No. 1986-689, unless a permit of the type described herein is issued or is being processed by such date. No structures, improvement or other intrusion shall hereafter be placed or constructed in the right-of-way without a permit as herein described having been issued. (Code 1977, § 20-25)

Sec. 21-102. Term of right-of-way use permits.

The term of the permit provided for by this article shall be no longer than three (3) years from the date of issuance. The city engineer shall determine the appropriate term and issue the permit accordingly. Issuance of any permit shall not preclude the city from terminating said permit at any time, without liability to the city, pursuant to the provisions of section 21-104. (Code 1977, § 20-26)

Sec. 21-103. Renewal.

Permits issued under the provisions of this article may be renewed if the original conditions to the issuance are still in existence and the city's interest continues to be served. (Code 1977, § 20-27)

Sec. 21-104. Termination.

Any permit issued under this article may be terminated upon ninety (90) days' notice from the city engineer. The city shall not be liable for any costs incurred by the permittee resulting from such termination. (Code 1977, § 20-28)

Sec. 21-105. Utilities.

No provision of this article shall be construed as to pertain to the legitimate use of the right-of-way by a utility company or special district. Such legitimate use shall be considered only as those

uses include, but are not limited to, the following: Water mains, laterals, and services; sewer mains, laterals and services; electric, gas, communications and telecommunications distribution networks (both aerial and underground); and public transit shelters, benches and appurtenances. (Code 1977, § 20-29)

Secs. 21-106—21-120. Reserved.

ARTICLE IV. COURTESY BENCHES AND BUS STOP SHELTERS

DIVISION 1. GENERALLY

Sec. 21-121. Definition.

In this article "courtesy bench" means:

- (1) Any bench or seat, located on public or private property within the city, which contains advertising material.
- (2) Any bench or seat, not containing advertising material, which is located on a public right-of-way or on public or private property within the following rectangle adjacent to an RTD sign designating a bus stop: Twenty (20) feet either side of the RTD sign and parallel to the roadway, and ten (10) feet from the RTD sign perpendicular from the roadway.

(Code 1977, § 4A-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 21-122. Exemptions.

The city and the regional transportation district are hereby exempt from application of the provisions of this article.

(Code 1977, § 4A-15)

Sec. 21-123. Identification of owner.

Each courtesy bench which is placed within the city shall be identified with the name of the owner, regardless of whether the owner is a person, business association, or nonprofit organization. Such identification shall be placed on the

front edge of the bench seat which faces the street, and shall be designed so as to be identifiable from the street. Such identification shall be placed on all benches, whether or not the bench has advertising.

(Code 1977, § 4A-9)

Sec. 21-124. Construction specifications; location, maintenance.

(a) *Size and weight.* No bench shall be more than forty-two (42) inches in height, two (2) feet, six (6) inches wide, and more than seven (7) feet in length. All bus stop benches must weigh a minimum of three hundred (300) pounds or must be anchored/secured in sufficient manner to prevent movement.

(b) *Location.* Benches for bus stops shall be located only at designated bus stops within the public right-of-way, off of the roadway or off of the public right-of-way with written permission of the property owner. If a bench for a bus stop is located off of the public right-of-way, the written permission of the property owner shall accompany the original application for permit and each annual reapplication submitted by the permittee. The bench must be placed at, or as near as is practicable to, the place where passengers board and disembark from the bus. It shall be the sole responsibility of the permittee to assure that all benches are placed on the public right-of-way or that permission has been granted from the other property owner. The bench company will be required to maintain and clean the area under and within a five-foot perimeter of the bench.

(c) *Distance from roadway; maintenance, accessibility.* No bench for a bus stop shall be maintained in any alley nor at any location where the distance from the roadway or curb to the back of the bench is more than eight (8) feet unless the building inspector, in his approval of the application, finds that to maintain a bench at such a location is in the public interest. All benches for bus stops shall be installed parallel with the street, and set back approximately three (3) feet from the paved roadway or curb, except as may be otherwise permitted by the building inspector, with respect to safety. All benches shall be kept at all times in a safe, clean and usable condition, and

EXHIBIT I

PUBLIC WAY ORDINANCE

CITY OF LAKEWOOD

**DEPARTMENT OF PLANNING, PERMITS & PUBLIC WORKS
987-7500**

RECEIVED

SEP 28 1999

**MISSINGER &
FELLMAN, P.C.**

A BILL FOR AN

ORDINANCE REPEALING AND REENACTING CHAPTER 12.04 OF THE LAKEWOOD MUNICIPAL CODE; REGULATING WORK IN THE PUBLIC WAY; REQUIRING A PERMIT AND PROVISION OF A PERFORMANCE/WARRANTY GUARANTEE; IMPOSING A REQUIREMENT FOR THE PROTECTION OF LIFE AND PROPERTY IN CONNECTION WITH WORK IN THE PUBLIC WAY, INCLUDING PEDESTRIAN SAFEGUARDS; AND REGULATING CONSTRUCTION TECHNIQUES FOR WORK IN THE PUBLIC WAY

WHEREAS, Section 31-15-702 C.R.S., 1973, grants the City the power to regulate work in the public way.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Chapter 12.04 of the Lakewood Municipal Code is hereby repealed and reenacted as follows:

12.04.010 CITATION.

This Ordinance shall be known as the "Public Way Permit" Ordinance of the City of Lakewood, Colorado.

12.04.020 DEFINITIONS.

For the purposes of this Chapter, the following words shall have the following meanings:

- (A) "City" shall mean the City of Lakewood, Colorado.
- (B) "Director" shall mean the City Administrator of the City or his/her authorized representative.
- (C) "District" shall mean any metropolitan, water, and/or sanitation district formed under Title 32, Article I, CRS, as amended.
- (D) "Permittee" shall mean the holder of a valid permit.
- (E) "Person" shall mean any person, firm, partnership, special, metropolitan or general district association; corporation; municipal department, company or organization of any kind.
- (F) "Public Way" shall mean any public street, way, place, alley, sidewalk, easement, park, square, plaza, and any City owned right-of-way or any other public property owned or controlled by the City of Lakewood and dedicated to public use. Any easements dedicated solely for utility purposes shall not be governed by the provisions of this ordinance.

- (G) "Specifications" shall mean the Engineering Regulations, Design Standards and Construction Specifications adopted by the City of Lakewood, Colorado.

Work in the public way shall mean, but not be limited to, construction of streets and all related appurtenances, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose.

12.04.030 TYPES OF PERMITS TO WORK IN THE PUBLIC WAY.

There shall be three types of permits to work in the public way:

- (A) Public Improvement Agreement Permits - Permits issued as part of the Public Improvement Agreement procedure under Chapter 14.13 of the Lakewood City Code. This chapter provides that any person obtaining a building permit may be required to sign a Public Improvement Agreement; provides for inspection of those public improvements, and provides for collateral to insure the public improvements are built and are warranted for one year satisfactory performance.
- (B) Annual permits - Permits granted to persons to cover all work done in the public way for a period of one year.
- (C) Individual permits - Permits granted to persons for one specific project in the public way.

12.04.040 APPLICATION FOR PERMIT.

(A) It shall be unlawful for any person to perform work within the public way of the City of Lakewood without obtaining a permit from the City of Lakewood. Any person doing work within the public way of a state highway must obtain a permit from the State of Colorado and the City of Lakewood. If the State of Colorado inspects the work in State right-of-way, there will be no charge for the Lakewood permit. If the City of Lakewood inspects the work in State right-of-way, all conditions and fees pertaining to a City of Lakewood permit shall apply.

(B) In Lakewood, the physical construction of public improvements in new developments is the responsibility of the developer of the land. Ownership of those improvements remains with the developer of the land until acceptance by the City. Any person performing work on those improvements which are within a public way, but prior to acceptance by the City shall obtain a permit from the City and permission from the owner of the improvements in the public way. The permittee shall be financially responsible to the owner of the improvements to carry out all remedial work necessary to receive acceptance by the City of those improvements. This financial obligation shall apply only to the work in the public way done by the permittee. A permit will be required from the City of Lakewood.

(1) Public Improvement Agreement Permit

An applicant doing work in the public way which requires a Public Improvement Agreement as required by Section 14.12 of the City Code shall have an approved set of plans and specifications prior to permit application. No work shall be started until the Director has approved the plans, specifications, and permit application. The application when approved shall constitute a permit.

(2) Annual Permits and Individual Permits

A separate written application for that work done under an annual or individual permit shall be submitted to the Director on a form provided by the City for each individual job. The application shall be submitted at least two days prior to the planned start of work in the public way. Permittees may be required to increase this time up to 14 days when the work consists of more than a single spot excavation. The City may require submission of plans and specifications. No work shall be started until the Director has approved the plans and specifications and permit application, except as specified in Section 12.04.180. The application when approved shall constitute a permit.

12.04.050 PERMIT FEES.

(A) Work Done Under a Public Improvement Agreement or Individual Permit:

A fee of Ten Dollars (\$10.00) shall be required to obtain each permit.

(B) Annual Permit:

A fee of One Hundred Dollars (\$100.00) per year shall be required to obtain an annual permit.

12.04.060 PERFORMANCE/WARRANTY GUARANTEE FOR PERMITS.

(A) Public Improvement Agreement

Procedures for guaranteeing performance and providing for warranty are specified in Chapter 14.13 and no additional Performance/Warranty Guarantee will be required in addition to those requirements.

(B) Individual Permit

Each permittee before being issued a permit shall provide the City, at the permittee's expense, a Performance/Warranty Guarantee. This guarantee shall be in the form of cash or a Letter of Credit.

The guarantee shall be in an amount equal to 100% of the City Engineer's estimate of the cost of restoration. The cost of restoration shall

include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The Letter of Credit shall run for a period of time at least one year beyond the anticipated acceptance date of the work identified in the permit and may be returned as provided in Section 12.04.060(B)(2). Such guarantees shall be extended if requested by the City Engineer.

The City Engineer may waive performance/warranty guarantee requirements for any owner of a single family residence desiring to repair their driveway or sidewalk provided the owner performs the work personally and upon satisfactory evidence to the City Engineer that the applicant is competent to perform the work.

(C) Annual Permit

Any entity doing work under an annual permit shall provide the City with \$10,000 cash or a Letter of Credit. The Letter of Credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the annual permit. If no refund request is received, the deposit shall be carried forward for use as the annual deposit for the following year.

(D) Other Guarantees

In lieu of (B) and (C) above, any public utility regulated by the State of Colorado Public Utilities Commission, persons holding a franchise from the City, mutual water districts, any governmental agency, or any metropolitan, water and/or sanitation district may provide the City with an annual letter signed by an appropriate company or district officer guaranteeing 1) complete performance of the work acceptable to the City, and 2) guaranteeing the correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially accepts the work.

If the Director determines that any permittee fails to promptly perform under the conditions of this Section 12.04.060(D), that permittee shall be required to post a performance/warranty guarantee meeting the requirements of Sections 12.04.060(B) or 12.04.060(C). If the Director determines that the permittee then satisfactorily complies with this ordinance for a one year period while operating under the provisions of 12.04.060(B) and 12.04.060(C) the permittee shall then again be eligible to operate with the annual guarantee letter provided in Section 12.04.060(D).

Notwithstanding anything to the contrary contained in this section, any contractor performing work pursuant to a contract directly with the city shall adhere to the performance payment requirements set forth in the contract documents.

12.04.070 PURPOSE OF PERFORMANCE/WARRANTY GUARANTEE.

(A) Any guarantee made hereunder shall serve as security for the performance of the work necessary to be done and shall be forfeited if the permittee fails to make the necessary repairs or to complete the work under the permit.

(B) The permittee, by acceptance of the permit, expressly guarantees complete performance of the work acceptable to the City and guarantees all work done by him for a period of one year after the date of acceptance, and agrees upon demand to maintain and to make all necessary repairs during the one year period. This guarantee shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship.
- (2) Settling of fills or excavations.
- (3) Any unauthorized deviations from the approved plans and specifications.
- (4) Failure to barricade.
- (5) Failure to clean up during and after performance of the work.
- (6) Any other violation of this ordinance.

(C) The one year guarantee period shall run from acceptance of the work. If repairs are required during the subsequent one year guarantee period, those repairs need only be guaranteed until the end of the initial one year period starting with the date of initial acceptance. It is not necessary that a new one year guarantee be provided for subsequent repairs after initial acceptance.

12.04.080 INSPECTION FEES AND PROCEDURES.

(A) At the time of permit application, all permittees shall pay for the costs of inspection. Costs of inspection shall be in accordance with the schedule of charges prepared by the Director and adopted by City Council Resolution.

(B) Inspections will occur as follows:

- (1) Public Improvement Agreement - Procedures for inspecting Public Improvements Agreements shall be as specified in Chapter 14.13.
- (2) Individual and Annual Permits - Two inspections shall take place. First, the permittee shall notify the City immediately after completion of work operations and acceptance will be made if all work meets City and permit standards. Second, approximately 30 days prior to the expiration of the one year guarantee, the City shall perform an inspection of the completed work. If the work is still satisfactory, the cash or Letter of Credit for individual permit holders shall be returned less any amounts needed to complete work not done by the permittee.

The annual deposit shall be carried forward for use as the annual deposit the following year if no refund request is received.

At any time prior to completion of the one year warranty period, the City may notify the permittee of any needed repairs. Such repairs shall be completed within 24 hours if the defects are determined by

the City to be an imminent danger to the public health, safety, and welfare. Nonemergency repairs shall be completed within 30 days after notice.

(3) Random Inspections

Random inspections may be made of procedures described in this Chapter, and the permittee shall correct his procedures if ordered to do so. Failure to do so may result in revocation of the permit.

12.04.090 TIME OF COMPLETION.

(A) Public Improvement Agreement.

Time of completion will be specified in the Public Improvement Agreement signed under the provisions of Chapter 14.13 of the City Code.

(B) Annual Permits and Individual Permits.

All work covered by the permit shall be completed by the date stated on the application. Permits shall be void if work has not commenced six months after issuance. Letters of Credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit.

12.04.100 INSURANCE.

Before a Public Way Permit is issued, the applicant shall submit to the Director a Certificate of Insurance in an amount set by City Council resolution. The Certificate of Insurance shall list the City of Lakewood, Colorado and its officers, and employees, as additional named insureds.

City departments, any public utility regulated by the State of Colorado Public Utilities Commission, mutual water companies, persons holding a franchise in the City, any governmental agency, or any special metropolitan, water and/or sanitation district shall be relieved of the obligation of submitting a Certificate of Insurance if the permit is signed in the name of that person and they carry insurance equal to an amount set by City Council resolution. Upon request, the agency shall submit a letter certifying such coverage or self-insurance. If a person other than those named above signs the permit, a Certificate of Insurance shall be provided.

12.04.110 TRAFFIC CONTROL.

No permittee shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained from the owner of that facility. If a street closing is required, the applicant will request the assistance and obtain the approval of the Director. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, and transit departments.

When necessary for public safety, the permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the Director.

Unless approved by the Director, the permittee shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the Director.

When it is necessary to obstruct traffic during the rush hours, a detour plan shall be submitted to the Director prior to starting construction. No permit will be issued until the plan is approved by the Director.

Type I and Type II barricades, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Barricades are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights. Oil flares or kerosene lanterns are not allowed as a means of illumination.

As a guide for all maintenance and construction signing, Part VI of the Manual on Uniform Traffic Control Devices and/or the City of Lakewood Work Area Control Traffic Handbook shall be used. The permittee shall illustrate on the permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be increased, decreased, or modified.

12.04.120 CONSTRUCTION STANDARDS AND RESPONSIBILITY FOR ALL PUBLIC IMPROVEMENTS.

The permittee shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with the Engineering Regulations, Construction Specifications, and Design Standards adopted by the City of Lakewood, Colorado. These standards shall apply to all work in the public way.

12.04.130 PROTECTION OF PAVED SURFACES FROM EQUIPMENT DAMAGE.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved surface unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to existing pavement by the operation of such equipment and upon order of the Director, shall repair such surfaces. Failure to do so will result in the use of the applicant's Performance/Warranty Guarantee by the City to repair any damage.

12.04.140 PROTECTION OF PROPERTY.

The permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

12.04.150 RELOCATION AND PROTECTION OF UTILITIES.

Before any permittee begins excavation in any public way, he shall make inquiries of all city, county, state, and federal departments, and all other agencies that might have facilities in the area of work to determine possible conflicts.

The permittee shall request field locations of all facilities in the area at least 48 hours in advance. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

12.04.160 NOISE, DUST, DEBRIS, HOURS OF WORK.

Each permittee shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of 10:00 p.m. and 7:00 a.m. and nor at any time on Sunday, except with the written permission of the Director, or in case of an emergency.

12.04.170 CLEAN-UP.

As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the permittee.

12.04.180 EMERGENCY WORK.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. Emergency work is defined to mean any work necessary to restore water, sewer, gas, phone, electric, and cable facilities. Repairs on other facilities in the public way may also be administratively classified as emergency by the Director. The person doing the work shall apply to the Director for a permit on the first working day after such work has commenced. All emergency work will require prior telephone notification to the City Department of Public Safety.

12.04.190 PRESERVATION OF MONUMENTS.

The permittee shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the Director. Any points disturbed will be replaced at the permittees expense.

12.04.200 LICENSE TO DO WORK.

All persons doing work within the public way under this Chapter shall obtain a License if required by Chapter 14.10 of the Lakewood Municipal Code.

The City Engineer may waive the license requirements for any owner of a single family residence desiring to repair their driveway or sidewalk provided

the owner performs the work personally and upon satisfactory evidence to the City Engineer that the applicant is competent to perform the work.

Boring or other methods to prevent cutting of the pavement will be required upon request of the Director. It is the City's intent to require boring only when necessary on arterial and major and minor collector streets with high volumes of traffic and/or serious accident potential.

12.04.220 SUSPENSION OR REVOCATION OF PERMITS AND STOP WORK ORDERS.

(A) Any permit may be revoked or suspended by the Director, after notice to the permittee for:

- (1) Violation of any condition of the permit or of any provision of this Chapter.
- (2) Violation of any provision of any other ordinance of the city or state law relating to the work;
- (3) Existence of any condition or the doing of any act which does constitute or cause a condition endangering life or serious damage to property.

(B) A suspension or revocation by the Director, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(C) A stop work order may be issued by the Director to any person or persons doing or causing any work to be done in the public way without a permit, or in violation of any provision of this Chapter, or any other ordinance of the City.

(D) Any suspension or revocation or stop work order may be appealed by the permittee to the Director by filing a written notice of appeal within ten days of the action.

12.04.230 APPEALS PROCEDURE.

Any decision rendered by the Director may be appealed within thirty (30) days by the permittee to the Board of Appeals in accordance with the rules and procedures established by that body.

12.04.240 PENALTY.

If any person, firm or corporation, including but not limited to the officers and agents of a corporation responsible for its actions or inaction, and the partners or a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this Chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted, and upon conviction of any such violation such person, firm or corporation, including but not limited to such partners or officers or agents, shall be punishable by a fine